



Town of Harpswell
Board of Appeals Minutes
July 22, 2015
Adopted September 23, 2015

Members Present

Ned Simmons, Chair
Jim Knight
Ellen Lebauer
John Perry
Ellen Shillinglaw
Pat Lawson, Associate Member

Members Absent

Staff Present

Diane Plourde, Recording Secretary

The Town of Harpswell Board of Appeals meeting, being duly advertised in the *Brunswick Times Record* was called to order at 6:30 p.m. by Ned Simmons, Chair. The chair read the agenda, introduced the board members and reviewed the procedures.

Old Business: Withdrawal of variance request – Mr. Deislinger

The Chair noted that there was no site visit.

New Business: 15-07-01BA – William Wells – Administrative Appeal

The Chair noted his concerns regarding the timeliness of the appeal that was issued on January 7, 2015. The Ordinance Section 14.2.1 reads in part, “An administrative appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the CEO... Such appeal shall be taken within forty (40) days of the date of the decision appealed from, and not otherwise, except that the Board, upon showing of good cause, may waive the forty (40) day requirement.” He said that clearly puts the Board way out of the time window for a timely appeal.

The Chair noted that an administrative appeal may be taken to the BOA by an aggrieved party. The definition of an aggrieved person is that a person who can show a particularized injury. The first appeal from the CEO is, in effect asking for an ordinance interpretation. He read from the BOA manual regarding the ordinance interpretation.

Jim Knight spoke about the timeliness issue. He read Chapter 4 of the BOA manual for the Board. Mr. Perry said he understands the wording and agrees with this. The Chair asked Mr. Wells if he had any questions, and Mr. Wells said he had no comment

Public Hearing:

David Chipman, Chairman Planning Board stated that the Planning Board is not asking to have the permit rescinded but the Board does not want this to happen again. He said that no one knew about this and as far as the timeliness, he found out about this about two months ago.

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Mike Field, Basin Point resident, said that on the day the excavator came to the property, he called the Code Office and asked if there were demolition permits. He was told there were permits taken for renovations. He told the office that the building was being torn down.

Debora Levensailor, member of Planning Board, wanted it to be noted that, in her opinion, this should have gone before the Planning Board.

Ralph Merriman, Basin Point resident, knew there was work going on with the property, but in terms of timing to hold this meeting, he asked why that process has taken so long.

Dorothy Rosenberg, Basin Point resident said they were only aware of the construction when they heard the noise. She asked who is responsible for the sanctions placed on violations of permits. Mr. Simmons stated that this is not within the purview of the BOA and if there were questions about violations, to notify the Code Office and if that office is not responsive, then the Board of Selectmen.

William Wells, CEO said there has been no violation of any kind. In the permitting package there are other documents integral to that permit and they are submitted together and they become one in the same. Those documents were submitted by the Architect, Jay Herrick.

Public Hearing Closed:

Ned Simmons moved seconded by Ellen Shillinglaw that based on the fact that the Code Officer does not have standing and that the application is not timely this appeal is denied. Motion carries 5-0

15-07-02 – Planning Board – Administrative Appeal

The Chair noted that the issue of timeliness is the same and the Planning Board does not have standing to bring this appeal. An appellant must show particularized injury in order to have standing.

Mr. Perry noted for purpose of record, that wording of the request from the Planning Board is incorrect and says “incorrectly issued a permit to demolish a structure”.

David Chipman, Planning Board Chair spoke to the appeal saying that, in his opinion, this should have come before the Planning Board.

Debora Levensailor asked the Chair to clarify the Shoreland Zoning Section 10.3.2.3 and Mr. Simmons read from this section.

Ned Simmons moved seconded by John Perry that based on a lack of standing and based on the fact that the filing was made after the 40 day time window, the Planning Board appeal is denied. Motion carries 5-0

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Ned Simmons moved seconded by Jim Knight to accept Mr. Deislinger's withdrawal of his appeal contingent on written confirmation. Motion carries 5-0

Other Business: Consideration of Minutes of May 27, 2015

Mr. Simmons noted a change within the first paragraph from "3 properties" to "*two (2) property setbacks and from lot coverage*".

Ned Simmons moved seconded by Ellen Lebauer to accept the minutes of May 27, 2015 as amended. Motion carries 5-0

Adjournment: The meeting adjourned at 7:05 PM.

Respectfully submitted by:

Diane E. Plourde
Recording Secretary